

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	)	
	)	NO. CR-05-6041-EFS
Plaintiff,	)	
	)	ORDER GRANTING DEFENDANT'S
v.	)	MOTION FOR REVIEW OF BAIL
	)	AND SETTING CONDITIONS OF
	)	RELEASE
AARON DEON KINSEY,	)	
	)	
Defendant.	)	

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This matter came before the Court on December 1, 2005, for a bail hearing. The government was represented by Jane Kirk, Esq. Defendant was present with appointed counsel, Alex Hernandez, Esq.

The Court **granted** Defendant's motion to reopen detention hearing and **granted** Defendant's motion for an expedited hearing.

The government proffered the pre trial service report and recommended continued detention based on risk of flight and danger to the community.

The defendant argued that there are conditions of release that could be imposed which will assure his appearance as required and protect community safety.

This court has taken into account the argument of counsel, evidence and information in the pre trial services report concerning the nature and the circumstances of the offense

1 charged, the weight of the evidence against the defendant, the  
2 history and characteristics of the person, including his  
3 character, physical and mental condition, family ties, employment,  
4 financial resources, length of residence in the community,  
5 community ties, past conduct, history relating to alcohol and drug  
6 abuse, criminal history, record concerning appearance at court  
7 proceedings and the nature and seriousness of the danger to any  
8 person or the community that would be posed by the defendant's  
9 release.

10 The court finds that the government has not established by a  
11 clear preponderance of the evidence that there is an absence of  
12 condition or conditions that could be imposed that would  
13 reasonably assure this defendant's presence at trial or compliance  
14 with court orders and further, that the government has not shown  
15 by clear and convincing evidence that there are no conditions that  
16 could be imposed which would protect community safety.

17 Upon receipt of the A. O. Form 199C, it is **ORDERED** that the  
18 U.S. Marshall shall release defendant from custody.

19 **IT IS FURTHER ORDERED**, that the release of the defendant is  
20 subject to the following conditions:

21 1. The defendant shall not commit any offense in violation  
22 of federal, state or local law.

23 2. The defendant shall advise the court and the U. S.  
24 attorney in writing before any change in address.

25 3. The defendant shall appear at all proceedings as required  
26 and shall surrender for service of any sentence imposed as  
27 directed.

1           4. The defendant shall sign and complete form A.O. 199C  
2 before being released and shall reside with his aunt at the  
3 address furnished.

4           5. The defendant shall remain in the Eastern District of  
5 Washington while the case is pending.

6           6. The defendant shall participate in electronically  
7 monitored home confinement. The defendant shall wear, at all  
8 times, an electronic monitoring device under the supervision of  
9 Pretrial Services. In the event the defendant does not respond to  
10 electronic monitoring or cannot be found, the Pretrial Services  
11 Officer shall forthwith notify the United States Marshals'  
12 Service, who shall immediately find, arrest and detain the  
13 defendant. The cost of this program is to be paid by the  
14 defendant unless this officer determines that the defendant is  
15 unable to pay, and in such case the cost of this surveillance is  
16 to be paid under a program established in accordance with 18  
17 U.S.C. § 3154(11). On a showing of necessity, the defendant may  
18 obtain written permission to leave this area from the United  
19 States Probation Office. The defendant shall not be released from  
20 custody until the home electronic monitoring is in place.

21           7. The defendant shall maintain or actively seek employment.

22           8. The defendant shall not possess a firearm, destructive  
23 device or other dangerous weapon.

24           9. Defendant is further advised, pursuant to 18 U.S.C. §  
25 922(n), it is unlawful for any person who is under indictment for  
26 a crime punishable by imprisonment for a term exceeding one year  
27 to ship or transport in interstate or foreign commerce any firearm

1 or ammunition or receive any firearm or ammunition which has been  
2 shipped or transported in interstate or foreign commerce.

3 10. The defendant shall refrain from the use of alcohol, and  
4 the use or possession of a narcotic drug and other controlled  
5 substances defined in 21 U.S.C. § 802 unless prescribed by a  
6 licensed medical practitioner. Based on the defendant's history  
7 of past drug related use and behavior and based on the  
8 government's presentation regarding defendant's past drug use and  
9 behavior, the court finds that the requisite probable cause has  
10 been established to warrant random drug testing in order to insure  
11 compliance with the above conditions for release. Based upon this  
12 court's finding of probable cause warranting random drug testing  
13 in this case, Defendant shall submit to regular urinalysis, or  
14 related testing, up to six a month as directed by a United States  
15 Probation Officer. Defendant shall undergo a substance abuse  
16 evaluation and complete treatment indicated by this evaluation.  
17 Defendant shall be responsible for the cost of testing, evaluation  
18 and treatment unless the United States Probation Office should  
19 determine otherwise. The United States Probation Office shall  
20 also determine the time and place of testing and evaluation and  
21 the scope of treatment but shall only conduct any testing at a  
22 public facility.

23 11. The defendant shall report to the United States  
24 Probation Office before or immediately after his release and shall  
25 report at such times and in such manner as they direct.

26 12. The Defendant shall have no contact with Charie White  
27 and shall have no contact directly or indirectly with any known or  
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1 suspected gang members.

2 13. Defendant is confined to his place of residence at all  
3 times when not at work. Defendant may only leave his residence,  
4 except for work, upon specific written permission of his probation  
5 officer.

6 13. The Defendant shall post a \$15,000 corporate surety  
7 bond and a \$15,000 appearance bond signed by his aunt with whom he  
8 will be residing.

9 You are advised that a violation of any of the foregoing  
10 conditions of release may result in the immediate issuance of a  
11 warrant for your arrest, revocation of your release and  
12 prosecution for contempt of court which could provide for  
13 imprisonment, a fine or both. Specifically, you are advised that  
14 a separate offense is established by the knowing failure to appear  
15 and that an additional sentence may be imposed for the commission  
16 of a crime while on this release. In this regard, any sentence  
17 imposed for these violations is consecutive to any other sentence  
18 you may incur.

19 DATED this 1<sup>st</sup> day of December, 2005.  
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21 s/Michael W. Leavitt  
22 MICHAEL W. LEAVITT  
23 United States Magistrate Judge  
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